

## Professional Services

### **PROTESTS**

#### **Protest of Requests for Proposals and Requests for Qualifications**

- A. Applicability. This section applies to the procurement of some nonprofessional and professional services. Protests shall be handled in accordance with the procedures listed herein.
- B. All communication with a protesting party shall be coordinated with the Contracting Services Unit Manager while the protest is still under consideration, unless an Appeals Board designates another Metropolitan representative.
- C. Protest of Proposals and Requests for Qualification
  - 1. A respondent may file a protest to the Contracting Services Manager, no later than four (4) working days prior to the due date of the solicitation in the event that the respondent believes the solicitation is:
    - a) Unfairly restrictive
    - b) Contains conflicting or ambiguous provisions
    - c) Would result in a contract that would be commercially impossible to perform
  - 2. The protest must be made in writing (a letter, e-mail or facsimile) and must contain the following information:
    - a) Name, address and phone number of the protestor
    - b) The title and solicitation number of the solicitation being protested
    - c) A detailed statement citing the provisions being protested, including the reason(s) for the protest.
  - 3. Late protests shall not be considered.
  - 4. The Contracting Services Manager or his/her representative will respond after an investigation of the facts citing any actions that neither will nor will not be taken regarding the solicitation.
- D. Protest of Awards
  - 1. Protest of contract awards should be made immediately, but in no case later than five (5) working days after the protester has been notified of actions affecting its status as a successful respondent. The protest must be made in writing and include the following information:
    - a) Name, address and phone number of the protestor
    - b) The title and solicitation number of the solicitation being protested
    - c) A detailed statement of the legal and/or factual grounds for the protest.
    - d) A statement explaining how the firm protesting would have received the award had the situation not occurred.
    - e) The form of relief requested
  - 2. Legitimate protests of awards are limited to situations where:
    - a) There has been a miscalculation by METROPOLITAN in determining a submitted price where price is identified as an evaluation factor

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- b) There has been an identified irregularity in the evaluation process as outlined in the solicitation
- c) The selection was not in accordance with applicable laws, administrative code, or established METROPOLITAN procedure.

### **Protest Appeals Board**

- A. A firm wishing to appeal the protest decision of the Contracting Services Manager may request a hearing of the Protest Appeals Board. The appeal must be filed no later than ten (10) working days from having received the decision of the Contracting Services Manager. The appeal must in the form of a letter to the Chief Operating Officer stating the reasons for the appeal.
- B. Upon receipt of the letter, the Chief Operating Officer may empanel the Protest Appeals Board if he/she determines that a hearing on the protest is appropriate.
- C. The board shall consist of three members. There shall be representative from the Legal Department, The Internal Auditor or a designated representative, and the Chief Operating Officer or a designated representative.
- D. If the protester fails to appear and participate in the hearing, the Protest Appeals Board may summarily rule upon the protest based upon information then available.
- E. Hearing Protocol. The hearing protocol shall be promulgated by the Protest Appeals Board and provided to the protester not later than (7) calendar days prior to the scheduled appeal hearing.
- F. Protest Decision. After the hearing, the Protest Appeals Board shall render a decision in writing to the protestor and the Contracting Services Manager.
- G. Remedies. If the protest is sustained in whole or part, an appropriate remedy shall be implemented.
- H. If the protester wishes to appeal the decision of the Protest Appeals Board, the protester must do so in writing to the METROPOLITAN Board of Directors within ten (10) working days of receiving the decision.